

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

USI INSURANCE SERVICES NATIONAL,  
INC. formerly known as WELLS FARGO  
INSURANCE SERVICES USA, INC., a North  
Carolina corporation,

Plaintiff,

v.

STANLEY OGDEN, an individual; MARCIA  
OGDEN, an individual; ELEANOR L'KEEFE,  
an individual; LEWIS DORRINGTON, an  
individual; JOHN HASKELL, JR., an individual;  
MARY MARK, an individual; ABD  
INSURANCE AND FINANCIAL SERVICES,  
INC., a Delaware corporation,

Defendants.

Case No. 2:17-cv-01394-RSL

**PLAINTIFF'S DISCLOSURE OF  
EXPERT WITNESSES PURSUANT  
TO FEDERAL RULE OF CIVIL  
PROCEDURE 26(a)(2)**

Pursuant to the Court's Minute Order Setting Trial Date & Related Dates (Dkt. #24) and  
Federal Rule of Civil Procedure 26(a)(2), Plaintiff hereby discloses the identity of the witnesses  
Plaintiff may use at trial to present evidence and testimony under Federal Rules of Evidence 702,  
703, or 705:

**PLAINTIFF'S FED. R. CIV. P. 26(a) DISCLOSURE OF  
EXPERT WITNESSES**

Case No. 2:17-CV-01394-RSL - 1  
Ex. 1 to Gonzalez Decl. - 4

LITTLER MENDELSON, P.C.  
One Union Square  
600 University Street, Suite 3200  
Seattle, WA 98101.3122  
206.623.3300

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**I. EXPERT WITNESSES**

A. Peter Nickerson, Ph.D.  
Nickerson & Associates LLC  
520 Pike Street, Suite 1200  
Seattle, WA 98101  
Phone: (206) 332-0270

Dr. Nickerson is expected to form opinions and testify on the subject of Plaintiff's economic damages. A copy of an initial report of Dr. Nickerson's expected testimony is attached hereto as **Exhibit A**. The disclosures and attachments required by Federal Rule of Civil Procedure 26 are included with Dr. Nickerson's report. As limited discovery has been conducted in this case, Defendant reserves the right to disclose a supplemental report of Dr. Nickerson after such time as additional facts related to this case have been disclosed and developed by the parties.

B. R. Bryan Tilden, CPCU, CLU, ARM  
Tilden & Associates  
526 Red Gate Road  
Pittsboro, NC 27312-7934  
Phone: (919) 542-1042

Mr. Tilden is expected to form opinions and testify on the subject of Plaintiff's economic damages and on various aspects of the commercial insurance industry. A copy of an initial report of Mr. Tilden's expected testimony is attached hereto as **Exhibit B**. The disclosures and attachments required by Federal Rule of Civil Procedure 26 are included with Mr. Tilden's report. As limited discovery has been conducted in this case, Defendant reserves the right to disclose a supplemental report of Mr. Tilden after such time as additional facts related to this case have been disclosed and developed by the parties.

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August 8, 2018

James G. Zissler, WSBA #30287  
Thomas P. Holt, WSBA #39722  
Emily R. Cardenas, WSBA #43180  
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Attorneys for Plaintiff  
 USI INSURANCE SERVICES  
 NATIONAL, INC. F/K/A WELLS FARGO  
 INSURANCE SERVICES USA, INC.

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of Washington. I am over the age of eighteen years and not a  
3 party to the within-entitled action. My business address is One Union Square, 600 University  
4 Street, Suite 3200, Seattle, Washington 98101. I hereby certify that on August 8, 2018, I served  
5 the foregoing to the following *via email, pursuant to the parties' Agreement to Allow*  
6 *Electronic Service:*

7 **Attorneys for Defendants**

8 Justo G. Gonzalez  
9 Jaime Cuevas, Jr.  
10 Stokes Lawrence, P.S.  
11 1420 Fifth Avenue, Suite 3000  
12 Seattle, WA 98101-2393  
13 Tel.: (206) 892-2158  
14 Fax: (206) 464-1496  
15 [justo.gonzalez@stokeslaw.com](mailto:justo.gonzalez@stokeslaw.com)  
16 [jcj@stokeslaw.com](mailto:jcj@stokeslaw.com)  
17 [wendy.davis@stokeslaw.com](mailto:wendy.davis@stokeslaw.com)  
18 [yu-shan.sheard@stokeslaw.com](mailto:yu-shan.sheard@stokeslaw.com)

19 I certify under penalty of perjury under the laws of the United States and of the State of  
20 Washington that the foregoing is true and correct.

21 Dated this 8th day of August, 2018.

22 s/ Karen Fiumano Yun

23 Karen Fiumano Yun  
24 [kfiumano@littler.com](mailto:kfiumano@littler.com)  
25 **LITTLER MENDELSON, P.C.**

26 Firmwide:156348988.1 096350.1002

# **EXHIBIT A**

# NICKERSON & ASSOCIATES LLC

Economists ▪ Statisticians ▪ Data Analysts

8/8/2018

Tom Holt

Littler Mendelson

One Union Square

600 University Street Ste. 3200

Seattle, WA 98101

Dear Mr. Holt,

I have been asked by counsel for the plaintiff to provide an analysis of economic loss to USI Insurance Services National, Inc. ("USI"), the plaintiff in this case, as a result of the following alleged causes of action as outlined in the plaintiff's *Amended Complaint for Damages and Injunctive Relief*: Breach of Contract, Breach of Duty of Loyalty, and Tortious Interference with Contract and/or Business Expectancy.

## Qualifications

I am an economist and the principal of Nickerson & Associates, LLC, a Seattle-based consulting firm specializing in economic and statistical analyses, especially analyses that require the use of large data sets. I have a Ph.D. from the University of Washington. In addition to my experience as a consultant, I was a tenured professor of economics at Seattle University for 13 years and taught at New York University as an adjunct professor. I also founded, took public, and sold an Internet technology company that specialized in the analysis and classification of large amounts of data. As a consultant, I have worked extensively in the areas of wage and hour litigation, valuation and damage calculations, and in various areas of business practices including copyright infringement and breach of contract. I have qualified as an expert and testified in depositions and in trial in federal and state courts in Alaska, Oregon, California, Washington, Idaho, Arizona, and Virginia. I have attached a vita and a description of my consulting firm to this report as Appendix A. I have also included a list of all documents and data reviewed in preparing this report as Appendix B as well as a table of our estimates in Appendix C.

## Background

USI is a commercial insurance broker and sells insurance and products in Washington and throughout the United States. One of the markets that USI services nationwide is the marine industry. ABD Insurance and Financial Services, Inc. ("ABD") is also a commercial insurance broker and sells insurance services and products in Washington and throughout the United States, and is a direct competitor of USI, including in the marine industry.

It is my understanding that in this case, USI alleges that defendant ABD encouraged defendants Stanley Ogden, Marcia Ogden, Eleanor O'Keefe, Lewis Dorrington, John Haskell, Mary Mark, and Cory Anderson to breach their employment agreements with USI by soliciting USI's customers while employed by the defendant.

## Lost Profits

In order to calculate the total economic losses as a result of the loss of the accounts to ABD, I was provided with and utilized business records in the form of financial statements and account information reports from USI, and applied the calculations out 10 years<sup>1</sup> after the end of the financial reporting period of January 31, 2017.

The financial statements give product line revenue totals for each sales executive, also known as a producer, as well as calculations of associated costs and savings as a result of the loss of accounts. The account information reports list all revenues for accounts under each producer for the period spanning February 2016 and January 2017, and indicates which of the accounts moved to defendant ABD. Based on these business records, I have calculated \$4,436,712 ("base revenue losses") as the total revenues paid to USI during the 12-month period spanning February 1, 2016 and January 31, 2017 by the clients that moved to ABD. I carry this amount forward in each year of economic losses, adjusting by the various amounts later in this section.

In the financial statements, USI calculates an average annual revenue loss of 3.9% between 2014 and 2016, which accounts for both retention and organic growth. Therefore, I assume a blended annual retention/growth rate of  $100\% - 3.9\% = 96.1\%$ . I apply this blended rate to the base revenue losses to calculate my estimate of lost revenues in each year, to account for organic retention and growth.

In the defendants' employment contracts with USI, the minimum time allowed before a departed producer may solicit accounts from USI is either two or three years, depending on the individual. If this had been the case, they would successfully transfer 30%<sup>2</sup> of those accounts to the new broker-- hence, a 70% retention rate in the third year only for John Haskell, and in the fourth year only for the remaining individual defendants. The retention rate then reverts to 96.1% in each year thereafter.

Based on the data in the financial statements, I assume an annual travel and entertainment expenses rate of 2.86%. These are calculated as a savings since they are expenses that USI would be paying, but for the loss of the accounts. From the same financial statements, I assume an annual sales compensation commission rate of 23.5%. This is also calculated as a savings.

USI estimates that USI would have had the capacity to service one-third of the accounts, had the individual defendants not moved to ABD. In order to account for the need to restore the level of personnel to service all of the accounts, I have included a one-time FTE Onboarding figure, calculated as one-fifth of the sales commissions saved for the first year of damages. It is calculated as a savings, since it is a cost USI would have incurred, but for the loss of the accounts.

Based on the yields on 10-year Treasury instruments reported on August 2, 2018, I assume a 2.98% Present Value discount rate.

I have calculated the total projected loss of \$21,431,195 after taking all of these items into account, not including the Present Value adjustment. I have calculated the Present Value-adjusted projected loss of

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<sup>1</sup> According to Bryan Tilden, a 95% retention rate corresponds to an average account lifetime of 13.5 years. Because there was a 96.1% retention rate observed in the business records, I opted to calculate economic losses out 10 years.

<sup>2</sup> According to Bryan Tilden, departed producers at a new employer, having waiting the appropriate non-solicitation period, transfer on average 30% of their former accounts from the previous employer to the new one.

\$20,051,459. Both calculations reflect the 10-year period spanning February 1, 2017 and January 31, 2027.

The opinions expressed in this report are subject to change if other information becomes available. Please do not hesitate to contact me if I can be of additional assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter H. Nickerson", written over a horizontal line.

Peter H. Nickerson, Ph.D.

## NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

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*Nickerson & Associates LLC is a consulting firm specializing in applying economics, statistics, and computer-related analyses to business and public policy issues for more than 35 years. Our clients have included numerous law firms; Fortune 500 companies; small and medium size businesses; federal, state, and local government entities; the U.S. Department of Justice; and labor and trade organizations. As consultants we have calculated damages in litigation; performed numerical, statistical, and econometric analyses both for litigation and public policy studies; and provided expert testimony in jury and bench trials on numerous occasions. In related capacities, we have been integrally involved in mediation and settlement discussions and served as Settlement Administrators in a number of class action cases.*

### Economic Analyses

Nickerson & Associates LLC is often asked to apply economic reasoning and theory to analyze real-world events. We have, for example, forecasted timber harvests in light of environmental laws, studied the effect of an oil spill on fishery permit prices in Alaska, and analyzed corporate restructuring plans and the effect of such plans on the age and gender distribution of employees. In the public policy arena, we have carefully analyzed and constructed simulations of the effect of agency rules on the distribution of state contracts across contractors and the effect of such policy on individual firms.

### Econometric and Statistical Analyses

Often we are asked to perform econometric and statistical analyses to test for the inference of causality or relatedness. Employment decisions, environmental damage and forecasting typically lend themselves to this sort of analyses. We often discuss with clients our opinion regarding the appropriateness of using statistical analyses in certain circumstances and have been asked on numerous occasions to assess others' statistical work and the integrity of data.

### Damages

Much of the litigation work performed by Nickerson & Associates LLC involves economic damage assessment. Examples include economic loss in individual employment cases, development of structured settlement methodologies in class action consumer and wage and hour cases, class loss estimates for corporate restructuring employment cases, and estimates of losses in contract disputes. On a number of occasions, we have been asked to develop computerized loss estimate systems to be used in settlement discussions.

### Database Development and Compilation of Computerized Database Records

A particular area of expertise for Nickerson & Associates LLC is the area of database development. By developing databases with high levels of integrity we provide more accurate analyses, are able to more carefully review and critique the work done by other experts, and can also provide our clients more complete and more quickly accessible information. Using existing electronic data, we have constructed databases as large as seven million records with 160 variables in each record. We have also constructed computerized databases using non-electronic information as the primary source. In one age discrimination case against a federal agency, we constructed a sound, analytical database from 80 boxes of job applications, personnel files, and employment decision records.

## Appendix A

### *Class Actions and Class Action Settlement Administration*

Nickerson & Associates LLC has both worked with court-appointed Settlement Administrators and been appointed the Settlement Administrator for a number of class action settlements. We have performed this work for classes as small as one hundred and as large as 35,000 individuals. We have been responsible for locating and notifying class members, responding to class members' inquiries, calculating individual awards, disbursing both the class awards and attorney's fees, and managing the settlement accounts.

## NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

### Selected Cases

Shannon v. McNally, National Football League (WEC 116622), Superior Court of California, Los Angeles, 1987

In Re: the Exxon Valdez (A89-0595-CV (HRH)), U.S. District Court, Alaska, 1989

Adams et al. v. Fred Meyer (3AN-90-10286), Superior Court of Alaska, 1990

UFCW et al. v. Nordstrom (90-2-04282-1) Superior Court of Washington, King County, 1990

Clark et al. v. Carr-Gottstein Foods Co. (A-94-0587-CD), U.S. District Court, Alaska, 1994

Olsen v. Payless Drugstores, NW (94-2-07361-9) Superior Court of Washington, Pierce County, 1994

Citizens Alliance to Protect Our Wetlands v. U.S. Corps of Engineers et al. (C95-591Z), U.S. District Court, Western Washington, 1995

Fox et al. v. Bonneville Power Administration (3:95-cv-01873-JE), U.S. District Court, Oregon, 1995

Migliuri v. First Interstate Bank of Washington (95-2-05972-8), Superior Court of Washington, King County, 1995

Sharp et al v. Overlake Hospital Medical Center (2:95-cv-01008-JCC), U.S. District Court, Western Washington, 1995

Laughman et al. v. Wells Fargo Leasing Corp. (96 C 925), U.S. District Court, Northern Illinois, 1996

Ebeling et al. v. United Airlines (2:97-cv-00347-JCC), U.S. District Court, Western Washington, 1997

Davis v. WA Department of Ecology (ALLO-02-0033), Personnel Appeals Board, 2002

Saccoccia v. Bozeman (DV-02-223), U.S. District Court, Montana, 2002

Corbis Corp. v. Amazon.com (CV-03-1415L), U.S. District Court, Western Washington, 2003

Cao v. City of Seattle (04-2-21734-2 SEA), Superior Court of Washington, King County, 2004

Pitts v. Murreys Disposal (04-2-07512-8), Superior Court of Washington, Pierce County, 2004

Stuart v. Swinerton (04 2 16611 0 KNT), Superior Court of Washington, King County, 2004

Gooden v. Eagle Transport (05-2-13546-3), Superior Court of Washington, King County, 2005

Gonzalez et al. v. OfficeMax (C07-02399 SC), U.S. District Court, Southern California, 2007

Olsen v. Hoot Winc (71-160-0045505 JOIB), American Arbitration Association, 2005

## Appendix A

### Selected Cases, Cont.

Schubeck v. King County (05-2-42224-6 SEA), Superior Court of Washington, King County, 2005

Tolbert v. Glacier (05-2-06976-7 SEA), Superior Court of Washington, King County, 2005

Turner v. University of Washington (CV05-1575L), U.S. District Court, Western Washington, 2005

Wagner v. PMA (CV05 1729 ST), U.S. District Court, Oregon, 2005

Watkins v. UPS (CV-05-1611-RSL), U.S. District Court, Western Washington, 2005

Elliott v. Cadman, Inc. (06-2-29743-1 SEA), Superior Court of Washington, King County, 2006

Lucky Break Wishbone v. Sears (06cv0312 TSZ), U.S. District Court, Western Washington, 2006

MP Medical Inc. v. Halls Medical (06-2-25495-3 SEA), Superior Court of Washington, King County, 2006

Fewel (Doe minor) v. Schnall (06-2-03644-1 SEA), Superior Court of Washington, King County, 2006

Nguyen v. Hardel Mutual Plywood (07-2-00661), Superior Court of Washington, Lewis County, 2007

Hurtado-Lopez v. Armadillo Bay (RG 08390556), Superior Court of California, Alameda County, 2008

Ballard v. TriMet (cv-09-873-PK), U.S. District Court, Oregon, 2009

Rojas v. Sunview Vineyards (09-cv-00705-AWI-SMS), U.S. District Court, Eastern District of California, 2009

Brink's Incorporated Wage And Hour Cases (BC423237, BC410374, BC392462), Superior Court of California, Los Angeles County, 2010

Faust v. Comcast (1:10-cv-02336-WMN), U.S. District Court, Northern District of Maryland, 2010

Lagos et al. v. Cogent Communications (4:11-cv-04523), U.S. District Court, Southern District of Texas, Houston Division, 2011

McCoy v. North Slope Borough (2:11-cv-00001 SLG), U.S. District Court, Alaska, 2011

## **PETER H. NICKERSON, PH.D.**

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**520 Pike Street, Suite 1200  
Seattle, WA 98101-4001**

**Main: (206)332-0270  
Direct: (206)332-0271  
Email: phn@nickersonassociates.com**

### **SUMMARY**

Over 35 years' experience as a consultant in economic and statistical analyses, damage calculations, mediation, and settlement administration. Testimony given in court, by deposition and by affidavit, in Federal and State proceedings throughout the United States. Six years' experience in the software/Internet industry as founder and CEO. Led initial development and took company public, raising over eighty million dollars. Thirteen years as a university professor teaching both graduate and undergraduate courses.

### **EXPERIENCE**

#### **Nickerson & Associates LLC, Seattle, WA**

**1978 –Present**

Principal and President of Economics and Statistics consulting firm.

- Direct and manage consulting engagements for law firms and their clients involved in litigation relating to labor and employment issues, natural resources, and commercial transactions. Work includes mediation preparation, damages estimation, statistical and economic analyses, and public policy analyses.
- Served as Settlement Administrator in class action cases and as such responsible for notification of class members, damage calculations, award distribution, and general administration.
- Testified in numerous cases; qualified as expert in Federal and State Courts in Oregon, Washington, California, Iowa, Montana, and Alaska.
- Engaged to analyze legislative and administrative decisions as they affect public policy and potential liability.
- Taught and presented various aspects of the economics of child support, economic damages, and expert preparation to Washington State Judges Conferences, National Institute for Trial Advocacy, Pacific Coast Labor Conference, MALDEF.
- Supervise and manage nine full-time professionals and support staff and various contract professionals as needed.

#### **Seattle University, Seattle, WA**

**2014 – 2015**

Adjunct Professor of Economics

#### **New York University, New York, NY**

**2010 – 2013**

Adjunct Professor of Economics

**EXPERIENCE** *(continued)*

**N2H2, Incorporated**

**1995 – 2001**

Chief Executive Officer, President and Founder of Internet content management business.

- Grew Internet company from inception to over \$10 million in annual sales and 250 employees, selling computer services to over 40% of K-12 education base in the U.S. and Australia and to businesses and educational institutions in thirteen other countries.
- Raised \$15 million in private capital and led company through a \$60 million public offering.
- As CEO made scores of presentations in public forums, investment conferences, education conferences and computer conferences about Internet content management, computer use in schools and businesses, and Internet content technology.
- Led numerous company initiatives and teams encompassing virtually all aspects of company functions including development, product management, customer service, marketing, and finance.

**Seattle University, Seattle, WA**

**1984 - 1997**

Visiting Assistant, Assistant, and ultimately Associate Professor for the Department of Economics and Finance, Albers School of Business and Economics, Seattle University. Tenured in 1991.

- Taught graduate and undergraduate courses in micro- and macro-economics, industrial organization, natural resources, and environmental economics.
- Served on numerous university, school, and departmental committees; Created, raised funding, and managed the University Adult Literacy Project; Created and served on the Board of the University Children's Literacy Project.
- Published various articles on resources, child support, and taxation in refereed journals, proceedings, and newspapers; served as session chair, discussant, and paper presenter at various professional conferences.
- Awarded Albers School of Business faculty research award and School of Business summer research grants

**University of Washington, Seattle, WA**

**1976 – 1983**

- Teaching Associate, Department of Economics and the School of Business, University of Washington.
- Research Assistant, Department of Economics and Institute of Marine Sciences, University of Washington.

## EDUCATION

### University of Washington, Seattle, WA

- Ph.D. in Economics 1984  
Fields of concentration were microeconomics, natural resources, and public finance. Research in natural resources and lottery allocation systems as they function as pricing mechanisms.
- Master of Science in Economics 1978  
Major coursework in macro and micro economic theory, econometrics, and natural resources. Estimated demand for recreational shellfish resources for Institute for Marine Sciences.

### Washington State University, Pullman, WA

- B.A. in Economics and Business 1975

### Stevens Institute of Technology, Hoboken, N.J.

- Engineering major 1970 - 1972

## DIRECTORSHIPS

Chairman of the Board, N2H2, Incorporated, 1995 – 2003.

Chairman of the Board, Iseek Limited, Brisbane Australia, 2000 – 2001.

Board of Directors, One Name Corporation, Seattle, WA 2000 – 2001.

## NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

### Rates and Billing

Hourly rates for Nickerson and Associates staff are as follows:

Peter Nickerson, Ph. D.	\$550
Randall R. Rucker, Ph. D.	\$425
Eshwari Rao	\$350
Verushka Fitzgerald	\$300
Kyle Snow	\$300
Ben Crockett	\$275
Andrew Greenwell	\$200
Tara Atkinson	\$200
Evan Thorn	\$150
Steven Turi	\$150
Project Staff	\$120 - \$160

Work is performed on a time and expenses basis.

During the course of an engagement, there may be out of pocket and other expenses incurred by Nickerson & Associates in connection with the performance of services, including but not limited to travel, telephone, and other miscellaneous expenses. Expenses will be paid directly by Nickerson & Associates LLC to the vendor and included on the next invoice to the client. Monthly billing will include expenses incurred and actual hours worked. Payments are due upon receipt of the invoice. In certain situations a retainer may be requested.

Please call Tara Atkinson, Operations and Accounting Manager, at 206-322-0270 with any questions.

## Appendix A

# NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

**Peter H. Nickerson, Ph.D.**  
**Depositions and Trial Testimony**  
**2012—2018**

CASE	COURT	YEAR	DEPOSITION	TRIAL TESTIMONY
Zemplenyi v. Group Health Cooperative	U.S. District Court, Western Washington	2012	YES	
Jennett v. Jefferson Community Counseling Center d.b.a. Jefferson Mental Health Services	Superior Court of Washington, Jefferson County	2012	YES	YES
Klein v. Omeros	U.S. District Court, Western Washington	2012	YES	
Acosta v. Tyson Foods	U.S. District Court, District of Nebraska	2013		YES
McCoy v. North Slope Borough	U.S. District Court, District of Alaska	2013	YES	
Rufin v. City of Seattle	Superior Court of Washington, King County	2014		YES
Baricuatro v. Industrial Personnel Management Services et al.	Superior Court of Washington, King County	2014	YES	
Newell v. HomeCare of WA	Superior Court of Washington, Spokane County	2014	YES	
Federal Home Loan Bank of Seattle v. Morgan Stanley, Goldman Sachs, UBS Securities, Deutsche Bank Securities, Merrill Lynch, and Credit Suisse Securities	Superior Court of Washington, King County	2015	YES	
Eat Right Foods v. Whole Foods	U.S. District Court, Western Washington	2015	YES	
Griffus et al. v. Knight Transportation	Oregon Circuit Court, Multnomah County	2015		YES
Williams v. Microsoft	Superior Court of Washington, King County	2015	YES	YES
Miglio v. United Airlines	U.S. District Court, Western Washington	2015	YES	
Borden v. Embassy Management	Superior Court of Washington, Pierce County	2016	YES	
Weil v. Citizens Telecom and Frontier Communications	U.S. District Court, Western Washington at Seattle	2016	YES	
Loczi v. Daimler Trucks	Oregon Circuit Court, Multnomah County	2016		YES
Kayshel v. O'Brien Auto	Superior Court of Washington, King County	2017	YES	

## **Appendix B: List of Documents Reviewed**

1. *Plaintiff's Amended Complaint For Damages And Injunctive Relief*, filed 12/18/2017
2. *ABD Marine Lost rev proforma 2012-2016 v3* spreadsheet, 8/3/2018
3. *USI v. Ogden, et al. – Account Information [Current 7/30/18]* spreadsheet, 7/30/2018
4. *USI v. Ogden, et al. – Lost Revenue Totals [Current 7/30/18]* spreadsheet, 7/30/2018
5. *2016 Best Practices Study*, conducted by Reagan Consulting, 2016
6. *2017 Best Practices Study*, conducted by Reagan Consulting, 2017
7. Expert Report from R. Bryan Tilden for the case *USI v. Northeast Series of Lockton Companies, LLC, et al.*, 6/28/2018
8. Expert Report from Ricardo J. Zayas for the case *USI v. Northeast Series of Lockton Companies, LLC, et al.*, 6/28/2018

## Appendix C: Report Tables

Description	Period Start	Period End	Fraction of Year	Expected Cash Revenue Loss (Adj. for Retention)	Prorated Revenue Based on Fraction of Year	Expenses Savings (7)	Sales Commission Savings (8)	FTE Onboarding Savings (9)	Projected Loss (10)	Present Value (PV) (11)
Reference Period (1)	2/1/2016	1/31/2017	1.00	\$ 4,436,712.20						
Year 1 - past	2/1/2017	1/31/2018	1.00	\$ 4,263,680.42	\$ 4,263,680.42	\$ (121,941.26)	\$ (1,001,964.90)	\$ (200,392.98)	\$ 2,939,381.28	\$ 3,071,996.25
Year 2 - past (2)	2/1/2018	8/1/2018	0.50	\$ 4,097,396.89	\$ 2,060,080.10	\$ (58,918.29)	\$ (484,118.82)	\$ -	\$ 1,517,042.99	\$ 1,539,606.57
Year 2 - future (2)	8/2/2018	1/31/2019	0.50	\$ 4,097,396.89	\$ 2,037,316.79	\$ (58,267.26)	\$ (478,769.44)	\$ -	\$ 1,500,280.08	\$ 1,500,280.08
Year 3 - future (3)	2/1/2019	1/31/2020	1.00	\$ 3,835,753.47	\$ 3,835,753.47	\$ (109,702.55)	\$ (901,402.07)	\$ -	\$ 2,824,648.86	\$ 2,783,706.53
Year 4 - future (4)	2/1/2020	1/31/2021	1.00	\$ 2,756,318.89	\$ 2,756,318.89	\$ (78,830.72)	\$ (647,734.94)	\$ -	\$ 2,029,753.23	\$ 1,942,447.70
Year 5 - future	2/1/2021	1/31/2022	1.00	\$ 2,648,822.45	\$ 2,648,822.45	\$ (75,756.32)	\$ (622,473.28)	\$ -	\$ 1,950,592.85	\$ 1,812,674.54
Year 6 - future	2/1/2022	1/31/2023	1.00	\$ 2,545,518.37	\$ 2,545,518.37	\$ (72,801.83)	\$ (598,196.82)	\$ -	\$ 1,874,519.73	\$ 1,691,571.40
Year 7 - future	2/1/2023	1/31/2024	1.00	\$ 2,446,243.16	\$ 2,446,243.16	\$ (69,962.55)	\$ (574,867.14)	\$ -	\$ 1,801,413.46	\$ 1,578,559.06
Year 8 - future	2/1/2024	1/31/2025	1.00	\$ 2,350,839.67	\$ 2,350,839.67	\$ (67,234.01)	\$ (552,447.32)	\$ -	\$ 1,731,158.34	\$ 1,473,096.97
Year 9 - future	2/1/2025	1/31/2026	1.00	\$ 2,259,156.93	\$ 2,259,156.93	\$ (64,611.89)	\$ (530,901.88)	\$ -	\$ 1,663,643.16	\$ 1,374,680.70
Year 10 - future	2/1/2026	1/31/2027	1.00	\$ 2,171,049.81	\$ 2,171,049.81	\$ (62,092.02)	\$ (510,196.70)	\$ -	\$ 1,598,761.08	\$ 1,282,839.53
<b>Total</b>					<b>\$ 29,374,780.06</b>	<b>\$ (840,118.71)</b>	<b>\$ (6,903,073.31)</b>	<b>\$ (200,392.98)</b>	<b>\$ 21,431,195.06</b>	<b>\$ 20,051,459.32</b>

(1) The figures in this period are based on the July 30, 2018 "USI v. Ogden et al. - Lost Revenues Totals" spreadsheet provided by USI

(2) This 12-month period has been split into two parts, based on the reference date of August 2, 2018

(3) This 12-month period uses a revised retention rate, assuming Haskell only had been able to transfer 30% of his accounts after waiting his contract-specified three years

(4) This 12-month period uses a revised retention rate, assuming the remaining individuals had been able to transfer 30% of their accounts after waiting their contract-specified three years

(5) These amounts are calculated assuming a 96.1% blended retention and organic growth rate from the previous 12-month period's revenue total, based on the August 3, 2018 "ABD Marine Lost rev proforma" spreadsheet provided by USI

(6) These amounts are prorated numbers based on what fraction of a year the row reflects

(7) These amounts are calculated as 2.86% of the "Prorated Revenue" amount, based on the Travel and Entertainment costs found in the August 3, 2018 "ABD Marine Lost rev proforma" spreadsheet provided by USI

(8) These amounts are calculated as 23.5% of the "Prorated Revenue" amount, based on the "% of sales comp to PLR" rate found in the August 3, 2018 "ABD Marine Lost rev proforma" spreadsheet provided by USI

(9) I apply a one-time savings of 20% of the first year's sales commission savings, to estimate the cost needed to onboard the necessary personnel to service the relevant accounts, had they remained with ABD

(10) These amounts are the projected losses for each time period, taking expenses, sales commissions, and FTE onboarding into account, where applicable. Total losses are \$20,710,290.89. Present Value is not reflected here

(11) Present Value-adjusted projected losses, using the reported 2.98% return on 10-year Treasury instruments as of August 2, 2018. Total losses in Present Value are \$19,340,758.27

# **EXHIBIT B**

# TILDEN & ASSOCIATES

R. BRYAN TILDEN, CPCU, CLU, ARM

August 8, 2018

Mr. Thomas P. Holt  
Littler Mendelson  
600 University Street, Ste 3200  
Seattle, WA 98101-3122

RE: USI V. OGDEN, ET AL

Dear Mr. Holt:

I have reviewed the material that you have provided me in relation to this matter. My comments below assume that the defendants engaged in the conduct alleged in the complaint, and the restrictive covenant was three years, except as to John Haskell, Jr., whose restrictive covenant was two years.<sup>1</sup>

My curriculum vitae are attached hereto as Exhibit A. I prepared this report after reviewing the documents listed below. My billing rate for consulting expert and expert witness work is \$250 an hour. These are my opinions to a reasonable degree of professional certainty. ***Because discovery is ongoing, I reserve the right to amend or supplement this report.***

1. Based on the *Best Practices Study*, an average retention rate of 92.9% for renewal business. It is custom and practice to measure this based on the change in revenue from year to year. New business acquired by the agency would impact this number and cause it to increase or decrease.
2. Based on the *Best Practices Study*, the USI retention rate compares favorably to the industry benchmarks. The Marine book of business is a book of business that is considered a specialty book of business. Specialty books of business have a higher retention rate.
3. If the non-solicitation agreements are honored, the retention of a purchased book by the agency is greater. This is due to the fact that the producer would not make contact for the period of the contract. The agency has the opportunity to develop their own relationship with the insured, making it harder for the producer to re-acquire the insured. All of the Defendants (except Marcia Ogden), Stanley Ogden, Eleanor O'Keefe, Lewis Dorrington, John Haskell, Jr., and Mary Mark, had non-solicitation agreements that prohibited solicitation of clients with whom they had material contact for a period of three years, except for John Haskell, Jr., whose non-solicitation agreement was for a period of two years.

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<sup>1</sup> Marcia Ogden did not have an agreement.

4. When a producer leaves an agency and honors the non-piracy agreement, it is my experience that a producer would only re-write 20% to 30% of the commission. This is because of the agency relationship that would develop during the term of the non-piracy agreement. This re-write rate, more likely than not, would not apply here. This book of business has already been taken by the individual defendants.
5. Risk is a subjective element. The result of the risk assessment is reflected in the discount rate used. The discount rate is comprised of the risk-free rate and risk premium. The higher the perceived risk is, the higher the risk premium. Conversely, the lower the perceived risk, the lower the risk premium. And, as to be expected, the higher the perceived risk, the lower the value of the agency.

In this particular book of business, the risk premium would be low. The non-piracy agreements in place, along with the historical retention rate of this book, would be the primary factors in making this determination. Also, the retention rate contemplates the future risk that the account will remain with the agency.

6. Most agencies, in my experience, have surplus personnel capacity. On a logistics basis, agencies have personnel in place to handle growth or situations such as this.

Please let me know if you need further information related to this matter.

  
\_\_\_\_\_  
R. Bryan Tilden  
CPCU, CLU, ARM, ALCM, ChFC, CIC

### Documents Supplied and Reviewed

- Complaint for Damages and Injunctive Relief and attachments thereto, including:
  - Exhibit A, Stanley J. Ogden Agreement and Covenant Not To Compete;
  - Exhibit B, Eleanor W. O’Keefe Agreement and Covenant Not To Compete;
  - Exhibit C, Lewis Dorrington Employment Agreement with ABD Insurance & Financial Services Employment Agreement;
  - Exhibit D, John C. Haskell, Jr., Wells Fargo Agreement;
  - Exhibit E, Mary Mark Employment Agreement with ABD Insurance & Financial Services Employment Agreement;
  - Exhibit F, Cory Anderson Acordia Northwest, Inc., Agreement;
- Spreadsheet entitled Lost Revenue Totals;
- Spreadsheet entitled Account Information; and
- 2016 and 2017 BEST PRACTICES STUDY UPDATE conducted by Independent Insurance Agents & Brokers of America, Inc. and Reagan Consulting, Inc.

## Exhibit A

### Curriculum Vitae of R. Bryan Tilden

**EDUCATION:**

**Senior Claim Law Associate, 2008**

AMERICAN EDUCATIONAL INSTITUTE, INC.  
Basking Ridge, New Jersey

**Chartered Financial Consultant, 1983**

THE AMERICAN COLLEGE  
Bryn Mawr, Pennsylvania

**Associate in Loss Control Management, 1983**

INSURANCE INSTITUTE OF AMERICA  
Malvern, Pennsylvania

**Associate in Risk Management, 1982**

INSURANCE INSTITUTE OF AMERICA  
Malvern, Pennsylvania

**Chartered Life Underwriter, 1982**

THE AMERICAN COLLEGE  
Bryn Mawr, Pennsylvania

**Chartered Property Casualty Underwriter, 1980**

THE AMERICAN INSTITUTE FOR PROPERTY AND LIABILITY  
UNDERWRITERS  
Malvern, Pennsylvania

**Certified Insurance Counselor, 1978**

SOCIETY OF CERTIFIED INSURANCE COUNSELORS  
Austin, Texas

**HONORS/ACTIVITIES:**

Continuing Professional Development, Society of Chartered Property  
Casualty Underwriters, 2016 - 2018

Grading Panel Member, The American Institute for Property and  
Liability Underwriters

Grading Panel Member, Insurance Institute of America

National Faculty Member, Society of Certified Insurance Counselors

Faculty, ACORD Power of Change Workshop, 1995 to present

Faculty, Independent Insurance Agents Virtual University,  
commentator to ISO, AAIS and ACORD

Ernest F. Young Education Award, 1988

North Carolina Independent Agent of the Year, 1989

Frequent contributor the *The John Liner Letter*

articles on Business Income, CGL, Auto, Risk Management

Reviewer, various CPCU and Insurance Institute textbooks

**MEMBERSHIPS:**

International Association of Arson Investigators  
Society of Certified Insurance Counselors  
Society of Chartered Property Casualty Underwriters  
Society of Claims Law Associates  
Society of Financial Service Professionals

**LICENSES:**

Property and Liability Agent, North Carolina, New Jersey  
Life and Health Agent, North Carolina, New Jersey  
Medicare Supplement and Long Term Care Agent, North Carolina

**EXPERIENCE:**

April 1997 to Present

**Training and Consulting**

Tilden & Associates  
Pittsboro, North Carolina

September 1995 to March 1997

**Director of Technical Affairs**

Independent Insurance Agents of North Carolina, Inc.  
Raleigh, North Carolina

March 1990 to August 1995

**Director of Education**

Independent Insurance Agents of North Carolina, Inc.  
Raleigh, North Carolina

September 1983 to March 1990

**Account Executive**

Chapel Hill Insurance Agency, Inc.  
Chapel Hill, North Carolina

September 1979 to July 1983

**Vice President**

Thomas Rutherford, Inc.  
Roanoke, Virginia

December 1978 to September 1979

**Account Executive**

Marsh & McLennan, Inc.  
Washington, DC

July 1974 to December 1978

**Account Executive**

Herb Holland Company, Inc.  
Chapel Hill, North Carolina

**PUBLICATIONS:**

The CPCU Society. "A Guide to the CGL Aggregate Limits",  
<http://www.cpcusociety.org/learning/campus/how.shtml> , 1999

The CPCU Society, "A Guide to the Motor Carrier Act",  
<http://www.cpcusociety.org/learning/campus/how.shtml>. 1999

The CPCU Society, "A Guide to Value Reporting Form",  
<http://www.cpcusociety.org/learning/campus/how.shtml>. 1999

R. Bryan Tilden, *1999 Business Auto Policy, Changes and Issues* (Albany: Professional Insurance Agents, 1999)

----, *2000 Commercial Property Changes* (Malvern: The CPCU Society, 2000)

----, *2000 Homeowners Policy Changes* (Malvern: The CPCU Society, 2000)

----, *2001 Commercial General Liability Policy Changes* (Malvern: The CPCU Society, 2001)

----, *2001 Business Automobile Policy Changes* (Pittsboro, NC: Tilden and Associates, 2001)

----, *2002 Commercial Property Changes* (Malvern: The CPCU Society, 2002)

----, *2004 Commercial General Liability Policy Changes* (Malvern: The CPCU Society, 2004)

----, *2007 Commercial General Liability Policy Changes* (Malvern: The CPCU Society, 2007)

----, *2008 Commercial Property Changes* (Malvern: The CPCU Society, 2008)

----, *2010 Automobile Policy Changes* (Malvern: The CPCU Society, 2011)

----, *2011 Homeowners Policy Changes* (Malvern: The CPCU Society, 2011)

----, *2012 Commercial Property Policy Changes* (Malvern: The CPCU Society, 2013)

----, *2013 Commercial General Liability Policy Changes* (Malvern: The CPCU Society, 2013)

----, *Additional Insured* (Austin: Society of Certified Insurance Counselors, Inc., 1996, 2005, 2013; Malvern: The CPCU Society, 1999, 2001, 2004, 2005, 2013)

----, *Advanced Business Income* (Malvern: The CPCU Society, 1990 – 2016)

----, *Advanced Inland Marine* (Malvern: The CPCU Society, 2000)

----, *Advanced Pollution Liability* (Malvern: The CPCU Society, 1999 - 2012)

----, *Arson and the Insurance Contract* (Austin: Society of Certified Insurance Counselors, Inc., 1998, 2004, 2012)

----, *Bonus Life and Non-Qualified Deferred Compensation Plans* (Pittsboro, NC: Tilden and Associates, 1998)

----, *Budgeting* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1995)

R. Bryan Tilden and Donald Malecki, *Builders Risk, Wrap-Ups and Course of Construction* (Malvern. The CPCU Society, 2006)

R, Bryan Tilden, *Business Automobile Coverage Part* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1993, 1994, 1997, 1999, 2002, 2004, 2005, 2006, 2010, 2013)

----, *Business Owner's Policy* (Austin: Society of Certified Insurance Counselors, Inc., 1990 – 2002, 2010, 2013)

----, *Claims Handling* (Pittsboro, NC: Tilden and Associates, 1999)

----, *Closing Gaps in Property Insurance* (Malvern: The CPCU Society, 1999, 2007, 2015)

----, *Commercial Account, The* (Malvern: The CPCU Society, 1999, 2001, 2005)

----, *Commercial Crime Program* (Austin: Society of Certified Insurance Counselors, Inc., 1988, 1991, 1992, 1999, 2000, 2006, 2013; Malvern: The CPCU Society, 2000, 2006, 2009, 2013)

----, *Commercial General Liability Coverage Part* (Austin: Society of Certified Insurance Counselors, Inc., 1989, 1992, 1994, 1996, 1997, 1998, 1999, 2001, 2004, 2007, 2013)

----, *Commercial Property Coverage Part* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1991, 1996, 2001, 2008, 2012)

----, *Commercial Property Causes of Loss Forms* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1991, 1996, 2001, 2008, 2012)

----, *Contract Bonds* (Pittsboro, NC: Tilden and Associates, 1999)

R. Bryan Tilden and Donald Malecki, *Contractual Risk Transfer* (Malvern. The CPCU Society, 2005)

R. Bryan Tilden, *Director's and Officer's Liability* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1997; 2002 Malvern: The CPCU Society, 1998, 2000, 2002)

----, *Disability Income and Long Term Care Insurance* (Pittsboro, NC: Tilden and Associates, 2006)

----, *Employee Leasing – The New CGL*. Counselor C93 #6 December (1993): 1-4

----, *Employment Related Practices* (Pittsboro, NC: Tilden and Associates, 1999, 2011, 2015)

----, *Endorsements to the Commercial Property Coverage Part* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1991, 1996, 2001, 2008, 2012)

----, *Essentials of Legal Liability* (Austin: Society of Certified Insurance Counselors, Inc., 1995)

----, *Essentials of Life Insurance* (Raleigh, NC: Independent Insurance Agents of North Carolina, Inc., 1991)

----, *Estate Planning* (Pittsboro, NC: Tilden and Associates, 1999)

----, *Estate Planning Techniques, Gifts, Trusts and Family Limited Partnerships* (Pittsboro, NC: Tilden and Associates, 2000)

R. Bryan Tilden and Donald Malecki, *Evolution of the CGL*, (Malvern. The CPCU Society, 2007)

R. Bryan Tilden, *Excess Liability and Commercial Umbrella Policies* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1995, 1997, 2013)

- , *Flood Insurance*, (Austin: Society of Certified Insurance Counselors, Inc., 1998)
- , *Garage Policy* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1993, 1994, 1998, 2006)
- , *Hidden Coverages* (Austin: Society of Certified Insurance Counselors, Inc., 1995, 1997, 2000; Malvern: The CPCU Society, 1998, 2004, 2010, 2013)
- , *Homeowner's Policy* (Pittsboro, NC: Tilden and Associates, 1998, 2001, 2011)
- , *Homeowner's Tricks and Traps* (Austin: Society of Certified Insurance Counselors, Inc., 1989, 1993, 1997, 2001, 2013)
- , *How to Determine the Financial Stability of an Insurance Company* Agents Journal Spring (1985) 18 - 19
- , *Human Resources* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1996)
- , *Insurance Fraud* (Pittsboro, NC: Tilden and Associates, 2001)
- , *Insurance Statute and Rules Update, An Agents' Guide* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1991)
- , *Insuring Contractors* (Malvern: The CPCU Society, 1998, 1999, 2004, 2007, 2013)
- , *Insuring Defective Construction* (Malvern: The CPCU Society, 2002, 2004, 2007, 2013; Austin: Society of Certified Insurance Counselors, 2002, 2004, 2007, 2013)
- , *Insuring the E-Commerce Account* (Malvern: The CPCU Society, 2000 – 2013)
- , *Insuring the In Home Business* (Austin: Society of Certified Insurance Counselors, 1998)
- , *Insurance Valuation Problems* (Malvern: The CPCU Society, 1997 – 2013)
- , "It's a Crime Not to Insure! Use New Crime Forms for the Best Coverage," *Resources* (The National Alliance for Insurance Education & Research), (Spring 2001), pp. 10-13.
- , *Law and the Life Insurance Contract* (Pittsboro, NC: Tilden and Associates, 2002)
- , *Leased Properties Exposures* (Austin: Society of Certified Insurance Counselors, Inc., 1989, 1997, 2005; Malvern: The CPCU Society, 1998, 2001, 2005, 2013)
- , *Liability Issues and Solutions* (Austin: Society of Certified Insurance Counselors, Inc., 1998)
- R. Bryan Tilden and Donald Malecki, *Malecki and Tilden on the CGL*, (Malvern. The CPCU Society, 2003, 2004, 2005)
- R. Bryan Tilden, *Medicare Supplement and Long Term Care* (Raleigh, NC: Independent Insurance Agents of North Carolina, Inc., 1991, 1992)

----, *Mergers, Acquisitions and Joint Ventures* (Malvern: The CPCU Society, 2001; Austin: Society of Certified Insurance Counselors, Inc., 2002, 2013)

----, *More Personal Lines Questions and Answers* (Pittsboro, NC: Tilden and Associates, 1997)

----, *N.C. Insurance Statutes and Rules Update, An Agents' Guide* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1992)

----, *Personal Auto Policy* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1990, 1993)

----, *Personal Auto Policy* (Pittsboro, NC: Tilden and Associates, 1999)

----, *Personal Lines Questions and Answers* (Malvern: The CPCU Society, 1997, 1998, 2012)

----, *Personal Lines, Troublesome Problem Areas* (Indianapolis: Independent Insurance Agents of Indiana, 1997, 1998)

----, *Pollution Liability Coverages* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1991, 1998, 2012)

----, *Pollution and Environmental Liability Coverages* (Malvern: The CPCU Society, 1999, 2012, 2015)

R. Bryan Tilden and John P. Young, *Pre-Licensing Guide* (Raleigh: Independent Insurance Agents of North Carolina, Inc., 1988, 1993)

R. Bryan Tilden, *Professional Liability* (Austin: Society of Certified Insurance Counselors, Inc., 1994, 1996, 1998)

----, *Problems and Solutions in Buy-Sell Agreements* (Pittsboro, NC: Tilden and Associates, 1998).

----, *Products and Completed Operations* (Malvern: The CPCU Society, 1999)

----, *Properly Insuring Churches, Clubs, Civic Groups and Other Not-For-Profit Organizations* (Austin: Society of Certified Insurance Counselors, Inc., 1991, 1998, 2001)

----, *Property & Liability Innovations and Solutions* (Austin: Society of Certified Insurance Counselors, Inc., 1998, 1999, 2001)

----, "Puzzled About Commercial Auto?" *Resources* (The National Alliance for Insurance Education & Research), (Fall/Winter 2001), pp. 8-9.

----, *Rental Car Exposures and Coverages* (Austin: Society of Certified Insurance Counselors, Inc., 1988, 1990, 1992, 1999)

----, *Shared Ownership of Property* (Austin: Society of Certified Insurance Counselors, Inc., 1989, 1990, 2001)

----, *Small Employer Group Benefits* (Raleigh, NC: Independent Insurance Agents of North Carolina, Inc., 1992)

----, *Solving Troublesome Liability Issues* (Austin, Society of Certified Insurance Counselors, Inc., 2016)

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----, *Split Dollar Plans* (Pittsboro, NC: Tilden and Associates, 1998)

----, *Time Element Coverages* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1992, 1996, 2001, 2008, 2012)

----, *Tips, Tricks and Traps of the CGL* (Austin: Society of Certified Insurance Counselors, Inc., 1990, 1992, 1998, 1999, 2012; Malvern: The CPCU Society, 2000, 2012)

----, *Toxic Mold, Where Is The Coverage?* (Malvern: The CPCU Society, 2003, 2004, 2008, 2010, 2013)

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----, *Workers' Compensation: Treating the Exposure* (Malvern: The CPCU Society, 2000)

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*Daniel Island Riverside Developers, LLC, et al, v. The Oaks at Rivers Edge Property Owners Association, Inc., et al*, 2010-CP-08-4318, In the Court of Common Pleas, Fifteenth Judicial Circuit, County of Berkeley, South Carolina.

*Philway Products, Inc. v. Berkley Mid-Atlantic, et al*, CV-2012-12-6749, Summit County Court of Common Pleas, Ohio.

*Colony National Insurance Company v. Sorenson Medical Inc., et al*, 2:10-cv-74-WOB, United States District Court for the Eastern District of Kentucky, Northern Division at Covington.

*Bowlers Alley, Inc. d/b/a Eastland Bowling Center v. The Cincinnati Insurance Company*, 2:13-cv-13804-PDB-MJH, United States District Court for the Eastern District of Michigan, Southern Division.

*Insurance Commissioner of Puerto Rico v. Guardian Insurance Company, et al*, Case Number CM-2014-40E, In The Office of the Puerto Rico Insurance Commissioner.

*Waldorf Condominium Association, Inc. v. Lexington Insurance Company, et al*, Docket L2877-13, Law Division Ocean County, Superior Court of New Jersey.

*James Bosek, et al v. Auto-Owners Insurance Company and Larson Insurance Services, Inc.*, 21-CV-12-1821, County of Douglas District Court, Seventh Judicial District, State of Minnesota.

*Frank L. Connor v. State Farm Fire and Casualty Company*, 4:14-cv-00790, United States District Court, Western District of Missouri.

*Kelly Schofield, et al, v. Argonaut Insurance Company, et al*, 14-cv-103F, United States District Court for the District of Wyoming.

*Stacey Allen Volden v. Monson & Company, Inc., et al*, 120903279, In the Third Judicial District, Salt Lake County, State of Utah.

*The Pavlec Family Partnership, L.P., v. Nationwide Mutual Insurance Company*, 4-14-cv-00477, United States District Court, Eastern District of Missouri.

*Eric LaFollette, et al, v. Liberty Mutual Fire Insurance Company*, 2-14-cv-04147, United States District Court, Western District of Missouri, Central Division.

*East Bridge Loft Property Owners Association, Inc., et al, v. Crum and Forster Specialty Insurance Company*, 2:14-CV-2567, United States District Court for the District of South Carolina, Charleston Division.

*USI MidAtlantic, Inc. v. Howard G. Wilson, et al*, July Term, 2014. No. 02746, Philadelphia County Court of Common Pleas, Philadelphia, Pennsylvania.

*Standby Technical Services, Inc., et al, v. F. & M. Agency, Inc., et al*, 14-cv-01857, United States District Court, District of Minnesota.

*Wayne J. Griffin Electric, Inc. v. Travelers Property Casualty Company of America*, 1:13-cv-00882, United States District Court, Middle District of North Carolina.

*F. H. Paschen, et al, v. Hiscox, Inc., et al*, 2:13-cv-05842, United States District Court, Eastern District of Louisiana.

*Liberty Mutual Fire Insurance Company v. The Clemons Coal Company, et al*, 2:14-cv-02332, United States District Court for the District of Kansas.

*Park Reserve, LLC v. Peerless Insurance Company, et al*, 4:14-00763, United States District Court for the Western District of Missouri, Western Division.

*APM, LLLP v. TCI Insurance Agency, Inc.*, 09-2014-CV-02885, District Court for the County of Cass, East Central Judicial District, North Dakota.

*Michael McDonald, et al, v. Selective Insurance Company of South Carolina, et al*, 1422-CC00687, In the Circuit Court of St. Louis City, State of Missouri.

*Harbour Yacht Club and Marina, LLC and Harbour Yacht Club and marina Sales and Service v. North American Specialty Insurance Company and Liberty Insurance Services*, OCN-L-2737-13, Superior Court of New Jersey, Ocean County.

*Kevin Johnson, et al, v. City of Alexandria, Arch Insurance Company, et al*, 247,208 Div. Ninth Judicial District Court, Parish of Rapides, State of Louisiana.

*William A. Strickland, et al, v. Nationwide Mutual Insurance Company*, 4:14-cv-01516-DDN, United States District Court, Eastern District of Missouri.

*Fresca Foods, Inc., v. Certain Underwriters at Lloyd' s London, True North First Mainstreet, LLC, et al*, 2014-cv-31415, In the District Court, Boulder County, Colorado.

*Tensas Water Distribution Association v. Arch Insurance Company*, 3:14CV1787, United States District Court, Western District of Louisiana, Monroe Division.

*Selective Insurance Company, et al, v. Auto-Owners Insurance Company and Progrowth Insurance Agency, Inc.*, 27-CV-15-8107, District Court of Minnesota, County of Hennepin, Fourth Judicial District.

*Mark Scott and Merrilee Scott v. LifeSecure Insurance Company*, 2:15-cv-00197-CW-DBP, United States District Court, District of Utah, Central Division.

*Advanced Imaging Partners. Inc., et al v. Edgewood Partners Insurance Center, dba EPIC, et al*, SC120707, Superior Court of the State of California, County of Los Angeles, West District.

*Raieigh OB/GYN Centre, P.A., et al, v. Allied World Insurance Company (U.S.) Inc., et al*, 5:15-CV-00388-BO, United States District Court, Eastern District of North Carolina, Western Division.

*Thomas Jackson, et al, v. Century Mutual Insurance Company*, 14-cvs-7263. Superior Court for Forsyth County, North Carolina.

*Mark Williams v. Soderholm Financial Services v. White Bear Lake Insurance Company*, 26-CV-15-260, District Court of Minnesota, County of Grant, Eighth Judicial District.

*Barbara Balsamello v. Allstate Life Insurance Company of New York, Inc., et al*, Index No.: 502320/2012, Supreme Court of The State of New York, County of Kings.

*Pamela Shore v. State Farm Mutual Insurance Company*, 4:16-CV-00301, United States District Court, Western District of Missouri.

*Seneca Insurance Group, Inc., v. Hamby & Aloisio, Inc.*, 1:16-CV-00174-WSD, United States District Court, Northern District of Georgia, Atlanta Division.

Heather Wingo v. Farmers Insurance Company, Inc., 4:16-cv-00646-JTM, United States District Court, Western District of Missouri, Western Division.

RSUI v. New Horizons Kids Quest, Inc., 16-CV-0028 (RHK/TNL), United States District Court, District of Minnesota.

The GWSPI Company, Trustee of the Jeffrey P. Blanchard 2013 Family Trust v. Life Insurance Company of the Southwest, Cause No. 2015CI06197, District Court Bexar County, Texas, 224<sup>th</sup> Judicial District.

Arch Insurance Company v. Outreach Community Development Corporation, 15-721-JWD-SCR, United States District Court, Middle District of Louisiana.

Gerald and Marsha Chanan v. Willis Towers Watson, Inc., 2016 L 004531, Circuit Court of Cook County, Illinois County Department, Law Division.

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BNSF Railway Company, v. Morrison Grain & Ag Services, Inc. and Mid-Continent Casualty Company, CIV-15-1066-F, United States District Court, Western District of Oklahoma.

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